

Notice of Allowability

Application No.

10/072,551

Examiner

Jonathan Ouellette

Applicant(s)

ANDRUS ET AL.

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 6/12/2007.
2. ☒ The allowed claim(s) is/are 1,2,4,6,7,12,13,16-18,22,23,26-28,32,33,36-38,42 and 43.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☐ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.
THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
 5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

- | | |
|--|--|
| 1. <input type="checkbox"/> Notice of References Cited (PTO-892) | 5. <input type="checkbox"/> Notice of Informal Patent Application |
| 2. <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 6. <input checked="" type="checkbox"/> Interview Summary (PTO-413),
Paper No./Mail Date <u>20070820</u> . |
| 3. <input type="checkbox"/> Information Disclosure Statements (PTO/SB/08),
Paper No./Mail Date _____ | 7. <input checked="" type="checkbox"/> Examiner's Amendment/Comment |
| 4. <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit
of Biological Material | 8. <input checked="" type="checkbox"/> Examiner's Statement of Reasons for Allowance |
| | 9. <input type="checkbox"/> Other _____ |

DETAILED ACTION

EXAMINER'S AMENDMENT

1. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it **MUST** be submitted no later than the payment of the issue fee.
2. Authorization for this examiner's amendment was given in a telephone interview with the Applicant's representative, **David Jordan, on 8/20/2007.**
3. The application has been amended as follows:
4. Claim 1, line 21, replace "or" with "and".
5. Claim 12, line 26, replace "or" with "and".
6. Claim 22, line 26, replace "or" with "and".
7. Claim 32, line 22, replace "or" with "and".

Response to Amendment

8. Claims 3, 5, 8-11, 14, 15, 19-21, 24, 25, 29-31, 34, 35, 39-41 have been cancelled, and Claim 43 has been added; therefore, Claims 1, 2, 4, 6, 7, 12, 13, 16-18, 22, 23, 26-28, 32, 33, 36-38, 42, and 43 are currently pending in application 10/072,551.

Claim Rejections - 35 USC § 112

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9. The rejection of Claim 43 under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention, is withdrawn due to Applicant's amendments.

Claim Rejections - 35 USC § 102

10. The Rejection of Claims 1, 2, 4, 6, 7, 13, 16-18, 22, 23, 26-28, 32, 33, and 36-38 under 35 U.S.C. 102(e) as being anticipated by McFarlane et al. (US 2002/0111887 A1) are withdrawn due to Applicant's amendments.

Claim Rejections - 35 USC § 103

11. The rejection of Claim 42 under 35 U.S.C. 103 as being unpatentable over McFarlane is withdrawn due to Applicant's amendments.

Allowable Subject Matter

12. **Claims 1, 2, 4, 6, 7, 12, 13, 16-18, 22, 23, 26-28, 32, 33, 36-38, 42, and 43 are allowed.**
13. The following is an examiner's statement of reasons for allowance:
14. As per **independent Claims 1, 12, 22, 32, and 43**, the prior art does not teach or suggest entering a business goal to be completed by a predetermined date and influenced by at least one of the plurality of metrics; automatically determining a recommended action that helps to complete the entered business goal based on the human-performance related data and the entered business goal data; **and** automatically calculating, based on at least one of the

updated plurality of metrics, a projected cost *savings* to be realized when the entered business goal is completed.

15. **McFarlane et al. (US 2002/0111887 A1)** discloses a method (system, apparatus, computer-readable medium) comprising: obtaining human performance related data from at least one remotely located application service provider (Para 0020-0022, Fig.2, Import Log Files); organizing the data into a plurality of metrics, the plurality of metrics including non-user-modifiable individual, group and enterprise workforce metrics each comprising an indicator of individual, group and enterprise performance toward predetermined workforce business goals, respectively, and user-modifiable individual, group and enterprise metrics each comprising an indicator of individual, group and enterprise performance toward personalized business goals, respectively, the plurality of metrics organized by metric category (Para 0028, Fig.2, Fig.6, Para 0045); adding a user-modifiable individual, group *or enterprise metric* to the plurality of metrics (Fig.7, collection of organization data); displaying a scorecard section operable to view the plurality of non-user-modifiable individual, group or enterprise workforce metrics; displaying a metric section operable to view the user-modifiable individual, group and enterprise metrics (Para 0024, reports); displaying an intentions section operable to register a personalized business goal influenced by at least one of the plurality of metrics (Para 0010-0011, Para 0022-0023); preparing an interpretation of the data organized into the plurality of metrics (Para 0011, Para 0023, Summary table compiled); displaying an analysis section operable to graphically display individual, group or enterprise performance of a metric category in comparison to an industry benchmark, and to

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display a list of metrics in the metric category (Para 0011, Para 0023, top 10% usage color-coded red, etc.).

16. **McFarlane fails to teach or disclose** entering a business goal to be completed by a predetermined date and influenced by at least one of the plurality of metrics; automatically determining a recommended action that helps to complete the entered business goal based on the human-performance related data; *and* automatically calculating, based on at least one of the updated plurality of metrics, a projected cost savings to be realized when the entered business goal is completed, as taught by the independent claims.
17. The remaining **dependent Claims** 2, 4, 6, 7, 13, 16-18, 23, 26-28, 33, 36-38, and 42 are considered allowable, as they are dependent and based off of an allowable independent claim.
18. Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Conclusion

19. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jonathan Ouellette whose telephone number is (571) 272-6807. The examiner can normally be reached on Monday through Thursday, 8am - 5:00pm.
20. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Weiss can be reached on (571) 272-6812. The fax phone numbers for the organization

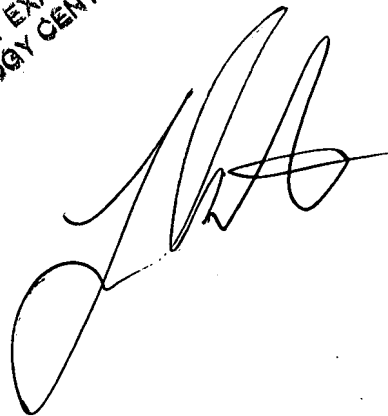
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where this application or proceeding is assigned (571) 273-8300 for all official communications.

21. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Office of Initial Patent Examination whose telephone number is (703) 308-1202.

August 20, 2007

JONATHAN QUELLETTE
PRIMARY EXAMINER
TECHNOLOGY CENTER 3800

A handwritten signature in black ink, appearing to be 'J. Quellette', written over the printed name and title.